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The Honorable Paul Tonko
Chair, Committee on Energy and Commerce,
Subcommittee on Environment and Climate Change
2125 Rayburn Office Building
Washington, DC 20515

The Honorable John Shimkus
Ranking Member, Committee on Energy and Commerce,
Subcommittee on Environment and Climate Change
U.S. House of Representatives
2322 Rayburn Office Building
Washington, DC 20515

Re: Key Recommendations of *Legal Pathways to Deep Decarbonization in the United States*

Dear Chairman Tonko and Ranking Member Shimkus:

We write in advance of your December 5, 2019 hearing on “Building a 100 Percent Clean Economy: Solutions for Economy-Wide Deep Decarbonization,” which will consider economy-wide approaches to addressing climate change in the U.S, with a specific focus on carbon pricing and the role of states in implementing climate policies. Of potential interest to you is the book that we recently co-edited, *Legal Pathways to Deep Decarbonization in the United States*, which contains contributing chapters from leading scholars across the country, and which includes more than 1,500 specific legal recommendations for reducing U.S. greenhouse gas emissions at least 80% by no later than 2050.

In this letter, we identify recommendations that cut across each of the pillars of decarbonization, and describe some of those that seem the most important to us in terms of achieving deep decarbonization. We are also enclosing a more thorough summary of the book’s recommendations for your consideration. Finally, the letter summarizes our thoughts about the role of states in a national effort to reduce greenhouse gas emissions.

KEY RECOMMENDATIONS FROM LEGAL PATHWAYS

Cross-cutting recommendations

- The federal government should set a price on carbon and other greenhouse gases.
- The federal government should accelerate and intensify research and development for zero-greenhouse-gas emitting technology and carbon removal technology.
- The federal government, in a future administration, should reinstate and strengthen climate change regulations that have been weakened under the Trump Administration.

- In all actions taken to reduce greenhouse gas emissions, the federal government, state and local governments, and the private sector, should:
 - Foster a just transition for those individuals and communities dependent on the carbon economy.
 - Maximize environmental, economic, and social co-benefits.

Energy efficiency and conservation

- The federal government should adopt strict fuel economy standards for light duty and heavy duty vehicles.
- The federal government should adopt more and stronger federal and state appliance efficiency standards.
- State and local governments should adopt stringent energy efficiency standards for new buildings.
- State and local governments should adopt requirements or incentives for building retrofits for resilience, electrification, and efficiency.

Decarbonization of electricity sector

- The federal government should adopt expedited approval procedures for leasing for offshore wind and not unduly delay the NEPA process.
- States should preempt local control for siting of utility-scale renewables.
- The federal government should reform the process for approval of interstate transmission lines to facilitate long-distance transmission of electricity from renewable sources.
- The federal government should eliminate fossil fuel subsidies.
- Local governments should ease building and zoning requirements for distributed renewables.

Switching of end-use fuels to electricity

- Federal, state and local governments, as well as the private sector, should engage in a massive infrastructure program to construct and operate electric vehicle charging stations.
- The federal government should redirect biofuels use from motor vehicles to more specialized uses such as in planes, and should strengthen existing requirements to make biofuels production more sustainable.
- State and local governments should encourage or require that existing buildings be heated and cooled by electricity rather than by oil or natural gas.

Carbon capture and negative emissions

- The federal government should progressively reform agricultural subsidies and incentives to encourage climate-friendly agriculture.
- Congress should amend the “organic legislation” for each federal public land system to mandate consideration and implementation of climate mitigation, adaptation, and resilience in management plans.
- States should impose restrictions on carbon dioxide emissions to drive carbon capture and sequestration, including carbon dioxide emissions from the industrial sector.
- States should modify their renewable portfolio standard laws to require not just the purchase of renewable energy but also energy produced by coal-fired and natural gas combined cycle plants that are equipped to capture carbon dioxide.

Significant reduction in emissions of non-carbon dioxide pollutants

- The federal government and states should strengthen controls over leakage and venting of methane throughout the life cycle.
- The federal government should impose stronger controls over emissions from diesel emissions from all sources, including black carbon emissions.
- To reduce black carbon and other emissions, EPA should prioritize regulations that accelerate fleet turnover and otherwise take older and dirtier engines and vehicles off the road.
- The federal government should quickly ratify the Kigali Amendment either through existing authority under the Clean Air Act or through formal advice and consent of the U.S. Senate.
- State and local governments should update and amend their green purchasing program requirements to eliminate purchases of HFC-containing equipment where other low-global-warming-potential and more energy efficient alternatives are available on the market.
- The federal government as well as state governments should strengthen regulations and incentives so as to significantly reduce nitrous oxide emissions in agriculture.

ROLE OF STATES IN DEEP DECARBONIZATION

As noted earlier, *Legal Pathways* makes recommendations for not only the federal government, but also state governments, local governments, and the private sector. Our analysis of these many recommendations leads us to conclude that each level of governance has unique abilities to reduce greenhouse gas emissions that cannot easily be replicated by other levels. This conclusion, of course, applies to states. States have an important role in:

- Permitting and regulation of utility-scale electricity generation (both fossil fuels and renewables).
- Siting of electric transmission lines.
- Siting and approval of intrastate electricity and natural gas distribution lines.
- Pricing of electricity and natural gas to consumers.
- Standards for emissions of hydrofluorocarbons (HFCs) because courts have limited the federal role.
- Regulation of oil, gas, and coal extraction on private or state-owned land.
- Subsurface property rights (relevant to CO₂ sequestration)
- Forestry on private land and state forests.
- Insurance regulation.
- Solid waste regulation.

The federal government should support and encourage efforts by states to reduce greenhouse gas emissions or, at a minimum, not interfere with states that are trying to reduce these emissions. States can and have made an important contribution to reducing these emissions. They have been—and continue to be—important sources of learning for the most cost-effective ways of reducing greenhouse gas emissions. And they have proven adept at finding ways of reducing greenhouse gas emissions in ways that produce other benefits. They have often lowered energy costs for the poor. They have contributed to employment and economic growth. These tools encourage technological innovations that can lead to even greater greenhouse gas reductions in the future, as well as further economic and employment growth. Use of these tools

also reduces emissions of other air pollutants that impair human health, including sulfur dioxide, mercury, and particulates. These additional benefits have often been strong drivers for adoption of greenhouse gas reductions at the state level.

We hope that this high-level summary of the key recommendations of *Legal Pathways to Deep Decarbonization* and our overview of the role of states' efforts are useful to you in your important work creating policies to achieve decarbonization in this country. Please let us know if we can be of further assistance to you or your fellow Subcommittee members, or if you or your staffs would like full copies of the book. A short summary version of the book is available for free download as a PDF from [this](#) site.

Sincerely,



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cc: The Honorable Frank Pallone, Chairman, U.S. House Committee on Energy and
Commerce
The Honorable Greg Walden, Ranking Member, U.S. House Committee on Energy and
Commerce